REMARKS

Claims 1 to 13 and 18 are the pending claims being examined in the application, of which Claims 1 and 12 are the independent claims. Claim 12 is being amended. Claim 14 is being cancelled without prejudice or disclaimer of the subject matter. Reconsideration and further examination are respectfully requested.

This application has been reviewed in light of the Office Action mailed on December 27, 2007. Claims 1-14 and 18 are now presented for examination. Claims 1 and 12 are independent. Favorable review is respectfully requested.

Claims 1-11 were rejected under 35 U.S.C. § 103(a) over Janik (U.S. Patent Application Publication No. 2002/0013852) and Jacoby (U.S. Patent Application Publication No. 2004/0254887). The applicants respectfully submit that the claims are patentably distinct from the cited art, for at least the following reasons.

It is conceded in the Office Action that Janik fails to teach, suggest or disclose a first computing device receiving a request for at least some of the meta data information collected at the first computing device from a second computing device. Jacoby fails to remedy the deficiencies of Janik.

Claim 1 is directed to a processor-readable medium embodying a set of instructions. These instructions, when read by a programmable processor of a first computing device, result in the processor performing a process including receiving, communicating and transmitting steps. In particular, claim 1 recites a step of receiving, by the first computing device, a request from a second computing device; this request comprises a request for at least some of the meta data information collected at the first computing device. Claim 1 also recites a step of communicating, by the first computing device to the second computing device, the requested meta data information and an identifier for each media file described by the requested meta data information; the identifier uniquely identifies the media file. Furthermore, Claim 1 recites a step of receiving, by the first computing device, from the second computing device a request to transfer a media file selected by the user at the second computing device; this request includes the identifier of the selected media file. By way of non-limiting example, for context, in an embodiment (e.g. specification, paragraph 44), a client (second computing device) requests meta data from an agent (first computing device). The meta data returned to the client includes an identifier, typically a universal resource

identifier (URI). The agent then receives from the client a request for streaming of a particular media file, identified by the identifier.

Jacoby is understood to disclose a system for generating a streaming media file which includes a metering event; a user meter is ticked (that is, a user account is updated) as the streaming media file is played on a client media player. However, Jacoby does not disclose or suggest a first computing device receiving a request for at least some of the meta data information collected at the first computing device from a second computing device, and thus does not remedy the defects of Janik as a reference against claim 1.

Jacoby's streaming media file includes meta data, i.e., header meta data and embedded meta data (Jacoby, paragraphs 18 and 27, and Figure 2). Property web server 130 publishes a web page, which includes a link to a pre-selected streaming media file, on client browser 125 (Jacoby, paragraph 36 and Figures 1 and 5). The user requests communication of the pre-selected streaming media using the link on the web page published by the property web server 130 (Jacoby, paragraphs 36 and 57, and Figure 5). Using the link, the URL of the streaming media file is passed to the server, e.g., the property web server 130 or a media frame server 140 (Jacoby, paragraphs 36 and 57, and Figures 1 and 5).

According to Jacoby, a server publishes a web page with a link to a pre-selected streaming media file, and the user clicks on the link, which results in the URL of the pre-selected streaming media file being passed to the server as a request for the pre-selected streaming media file. A "request" in Jacoby is a request for the streaming media file pre-selected for inclusion in the web page published by the web server 130, and the meta data is communicated as part of the streaming media file in response to Jacoby's "streaming media request." In contrast to the above-noted step of receiving a request for meta data in Claim 1, the server of Jacoby does not receive any requests for meta data from client devices. Janik admittedly also fails to teach, suggest or disclose receiving, by a first computing device from a second computing device, a request for at least some of the meta data information collected at the first computing device. It follows then that no combination of Jacoby and Janik can teach, suggest or disclose communicating meta data information in response to such a request, let alone an identifier for each media file described by the requested meta data information; receiving a request that includes the communicated meta data from the user, let alone a request that includes the identifier communicated in response to such a request; and/or transmitting the media file identified by the communicated identifier.

It also follows that as in Janik, a "request" in Jacoby involves control over playing a pre-selected media file. The Applicant previously pointed out that, in Janik, a playlist is not compiled in accordance with any identifiers received from client devices, but rather in accordance with pre-selection by the user (see Janik, paragraph 132). A "request" in Janik (paragraph 120) from a client device (e.g. playback device 86) involves control over playing of a selection which already appears on a playlist; this "request" is in no way a request for meta data as recited in Claim 1. A "request" in Jacoby (paragraphs 36 and 57) from a client (client browser 125 of Jacoby) involves controlling play of a streaming media file pre-selected for the published web page; this "request" is in no way a request for meta data information as recited in Claim 1.

Since Janik does not disclose all of the features recited in claim 1 and Jacoby fails to disclose at least the same features not disclosed by Janik, Claim 1 is not rendered obvious by the combination of references, as all claim elements are not found in the combination. Claim 1 is therefore believed to be patentable over the applied art. Claim 12 is believed to be patentable over the applied art for at least the same reasons.

Claim 18, dependent from claim 12, was also rejected under 35 U.S.C. § 103(a) as unpatentable over Janik in view of Jacoby (U.S. Patent Application Publication No. 2004/0254887). Jacoby is understood to disclose a system for generating a streaming media file which includes a metering event; a user meter is ticked (that is, a user account is updated) as the streaming media file is played on a client media player. However, Jacoby does not disclose or suggest a receiving step as described above, and thus does not remedy the defects of Janik as a reference against claim 12. Dependent claim 18 therefore is not rendered obvious by Janik, Jacoby or a combination of those references.

The other claims in the application are each dependent from one or another of the independent claims discussed above and are believed to be patentable at least for the reasons discussed above with respect to Claims 1 and 12. Since each dependent claim is deemed to define an additional aspect of the invention as presently claimed, however, the consideration of each claim on its merits is respectfully requested.

In view of the foregoing amendments and remarks, the applicants respectfully request favorable consideration and early passage to issue of the present application. The Examiner is respectfully requested to contact the undersigned attorney by telephone if

any issues remain which would delay a Notice of Allowance. An additional interview with the Examiner and his supervisor is respectfully requested to resolve any such issues.

No fees are believed to be due. The Commissioner nevertheless is hereby authorized to charge any fees which may be required for this Amendment to Deposit Account No. 50-1561 of Greenberg Traurig, LLP.

Respectfully submitted,

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